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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,120	01/21/2002	Oscar E. Agazzi	47536/SDB/B600	8931

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EXAMINER

CORRIELUS, JEAN B

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,120

Applicant(s)

AGAZZI, OSCAR E.

Examiner

Jean B Corrielus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/10/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 51 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "the phase control signals", recited in lines 2-3, lacks of proper antecedent basis.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory

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double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 41-57 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 175, 179 and 181-187 of copending Application No. 10/207,305. Although the conflicting claims are not identical, they are not patentably distinct from each other because such modification would have been obvious to one skill in the art so as to satisfy system's requirements.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 41, 42, 47 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brede et al US Patent No. 5,726,607 in view of Kyles US patent No. 6,028,462.

As per claims 41 and 50, Brede et al discloses a timing recovery system (fig. 3) for generating a set of clock signals (150 and 160) in a processing system the set of clock signals comprising a set of sampling clock signals (see fig. 1, output of divider 114) the processing system (fig. 3) comprising a set of processing subsystems (100a and 110b), each of the processing subsystems comprising an analog section (fig. 1 and col. 13, lines 8-9), each of the analog sections operating in accordance with a corresponding one of the sampling clock signals (provided to element 116 and feedback to device 114), the timing recovery comprising:

a set of phase detectors (106)(Note that at col.13, lines 8-9, that Brede et al teaches that the PLL 100a is identical to PLL 100b, therefore, each element of set of devices uses the same reference number) generating phase errors for the corresponding sampling clock signals; a set of loop filters (108) coupled to the corresponding phase detectors (106), the loop filters (108) receiving the corresponding phase errors and generating filtered phase errors; a set of digital to analog converters (110) coupled to the loop filters (108), the D/A converters (110) receiving the filtered phase errors and generating analog filtered phase error; a set of oscillators (112) coupled to the corresponding D/A converters (110), the oscillators 112 receiving the analog filtered phase errors and generating the sampling clock signals. However, Brede does not explicitly teach that the signals generated by the PLL are transmitted to respective sybsystems . Kyles teaches a pair of PLL generating a pair of clock signals transmitted to

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respective subsystems see col. 1, lines 48-67. It would have been obvious to one skill in the art to incorporate such a teaching in Brede et al in order to synchronize the transfer of data into the transmitter and to synchronized the recovered data signal from the receiver. see col. 1, lines 53-55 and lines 65-67.

As per claim 42, it would have been obvious to one skill in the art to include a diode in Brede et al so as to ensure that signals traveled only a desired direction.

As per claim 47, Kyles further teaches that the set of clock signals includes a transmit clock signal see fig.1 and that a transmit section operates in accordance with the transmit clock signal see col. 1, lines 53-55. given that it would have been obvious to one skill in the art to incorporate such a teaching in Brede et al so to synchronize the transfer of data into the transmitter . see col. 1, lines 53-55.

Response to Arguments

6. Applicant's arguments with respect to claims 51-57 have been considered but are moot in view of the new ground(s) of rejection.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

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or faxed to:

(703) 872-9314

(for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (703) 305-4023. The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour, can be reached on (703) 306-3034.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.


Jean B. Corrielus

Primary Examiner

TC-2600 4/29/04